REMARKS

In the October 21, 2004 Office Action, the Examiner noted that claims 2-60 were pending in the application; rejected claims 17-21, 25, 26 and 45-60 under 35 U.S.C. § 102(e); rejected claims 2-6, 9-16, 22-24 and 27-44 under 35 U.S.C. § 103(a); and objected to claims 7-8 as reciting allowable subject matter, but dependent from rejected base claims. In rejecting the claims, U.S. Patents 5,774,664 to Hidary et al. and 5,978,773 to Hudetz et al. (Reference A in the October 21, 2004 Office Action) were cited. Claims 45-60 have been canceled and claims 61-68 have been added. Thus, claims 2-44 and 61-66 remain in the case. The Examiner's rejections are traversed below.

Newly Cited Prior Art: U.S. Patent 5,978,773 to Hudetz et al.

The Hudetz et al. patent is directed to reading a Uniform Product Code (UPC) on a product or its packaging using a barcode reader and translating the UPC code into a uniform resource locator (URL) to use as an Internet network address.

Rejections under 35 U.S.C. § 102(e)

In item 2 on page 2 of the Office Action, claims 17-21, 25, 26 and 45-60 were rejected under 35 USC § 102(e) as anticipated by Hudetz et al. Claims 17 and 25 have been amended in various ways to clarify that the invention is not related to reading an identifier from a package containing an item or an identifier printed on the item itself. For example, claim 17 recites "deriving an identifier at the local device by abstracting contents of the local data not stored to identify the local data" (claim 17, lines 3-4).

The term "abstracting" is being used in the claims to describe a process that produces an "abstraction" which is defined as the "selection of a certain aspect of a concept from the whole" in The American Heritage® Stedman's Medical Dictionary, Copyright © 2002, 2001, 1995 by Houghton Mifflin Company. This definition has been used because most definitions for both "abstracting" and "abstraction" are recursive in relying on the definition of some form of the word "abstract" and do not describe the process by which an abstraction is formed. A similar definition is the "process of leaving out of consideration one or more properties of a complex object" from Webster's Third New International Dictionary, Merriam-Webster Co., 1961.

While the terms "abstracting" and "abstraction" are not used in the specification, these terms are an apt description of the identifier used in the preferred embodiment, i.e., "the concatenation of the track lengths expressed in a fairly coarse unit, such as 1/4th of a second"

(page 9, lines 25-26). It would be immediately apparent to one of ordinary skill in the art that an identifier formed in this manner is derived from information that is "not stored to identify the local data" (claim 17, line 4) where the "local data" is a "recording" as described in the specification and in many other claims. It is also clear that this identifier "is capable of further abstraction" (claim 62, last line), by making the identifier "coarser," e.g., by concatenating track lengths in units of one full second.

Similarly, the words "not stored to identify the recording" are not used in the specification; however, the last paragraph on page 9 of the specification states that the "unique identifier may be based on the number and lengths of the tracks" and one of ordinary skill in the art would understand that "the number and lengths of the tracks" are not stored for the purpose of identifying the recording, but for enabling playback of specific tracks.

Using language slightly different than claim 17, claim 25 recites "deriving an identifier by abstracting contents of the local data not stored to identify the local data" (claim 25, lines 4-5). Since claims 45-60 have been canceled, it is submitted that claim 17-21, 25 and 26 patentably distinguish over Hudetz et al. for at least the reasons discussed above.

Rejections under 35 U.S.C. § 103(a)

In item 3 on pages 2-4 of the Office Action, claims 2-6, 9-16, 22-24 and 27-44 were rejected under 35 USC § 103(a) as unpatentable over Hidary et al. in view of Hudetz et al. In making this rejection, Hudetz et al. was relied on as teaching "a database for storing related URLs" (Office Action, page 3, lines 19-20). Two portions of Hudetz et al. was cited as providing this teaching. The first at column 4, lines 19-30 is the last paragraph of the Summary of the Invention and describes problems that are solved by the system taught by Hudetz et al., not how those problems are solved. The second portion at column 7, lines 1-28 describes a "URL/UPC" Database" (column 7, line 1) containing four fields as illustrated in Fig. 4. The first two fields 70 and 72 contain UPC codes with five digits in each field. The third field 74 contains a URL. As discussed above, Hudetz et al. discloses a system that reads UPC codes from an item or its packaging and retrieves a URL from this database corresponding to the UPC code that was read.

As also discussed above, it is submitted that there is no suggestion in the cited portions of Hudetz et al. or any other portion of Hudetz et al. or Hidary et al. regarding "using an identifier derived from contents of the recording not stored to identify the recording" (claim 2, last two lines) to obtain "remote data ... from at least one storage location" (claim 2, line 4) in a network. Therefore, it is submitted that claim 2 and claims 3-6 and 9-12 which depend therefrom

patentably distinguish over Hidary et al. in view of Hudetz et al. for at least the reasons discussed above.

Claims 3 and 4 have been amended to recite that an "at least partial pointer at least partially defines a uniform resource locator" (claim 4, line 3). Although the term "partial pointer" is not used in the specification, the commonly known concept that a "URL includes both an identification of the server and an identification of a particular item of data within the server" (page 5, lines 15-16) is mentioned. One of ordinary skill in the art would understand that in an application where the server is known, by the local device, only the part of the URL identifying the particular item of data within that server needs to be supplied to the local device.

Claim 13 has been amended to recite "deriving an identifier by abstracting information associated with the recording that is not provided to identify the recording" (claim 13, lines 4-5). As discussed above, Hudetz et al. discloses a system that reads UPC codes which are specifically provided as a machine-readable identifier on the outside of a product or its packaging. Nothing has been cited or found in Hidary et al. suggesting deriving an identifier as recited in claim 13. Therefore, it is submitted that claim 13 patentably distinguishes over Hidary et al. in view of Hudetz et al. for the reasons discussed above.

Claim 14 recites "deriving an identifier by abstracting contents of the local data not stored to identify the local data" (claim 14, lines 4-5). As discussed with respect to claims 2 and 13, the combination of Hidary et al. and Hudetz et al. do not teach or suggest a processor or anything else performing this operation. Therefore, it is submitted that claim 14 patentably distinguishes over Hidary et al. in view of Hudetz et al.

Claim 15 recites "remote data obtained via the network from at least one storage location determined using an identifier derived from contents of the recording not stored to identify the recording" (claim 15, lines 4-6). As discussed above, neither Hidary et al. nor Hudetz et al. teach or suggest this operation. Therefore, it is submitted that claim 15, and claim 16 which depends therefrom, patentably distinguish over Hidary et al. in view of Hudetz et al.

Claims 20-22 depend from claim 17 and claims 27-32 depend from claim 25. Nothing has been cited or found in Hidary et al. that suggests modification of how an identifier is obtained in Hudetz et al. to make claim 17 or 25 obvious. Therefore, it is submitted that claims 22-24 and 27-32 patentably distinguish over Hidary et al. in view of Hudetz et al.

Claim 33 recites "remote data obtained via the network from at least one storage location determined by abstracting contents of the recording not stored to identify the recording" (claim 33, lines 4-6). As discussed above, neither Hidary et al. nor Hudetz et al. teach or suggest this

operation. Therefore, it is submitted that claim 33, and claims 34-36 which depend therefrom, patentably distinguish over Hidary et al. in view of Hudetz et al.

Claim 37 recites obtaining "remote data via the network from at least one storage location determined by abstracting contents of the recording not stored to identify the recording" (claim 37, lines 3-5). As discussed above, neither Hidary et al. nor Hudetz et al. teach or suggest this operation. Therefore, it is submitted that claim 37, and claims 38-40 which depend therefrom, patentably distinguish over Hidary et al. in view of Hudetz et al.

Claims 41 and 42 recite "providing enhanced capability ... based on an identifier derived by abstraction of contents of ... [a] recording not stored to identify the recording" (e.g., claim 41, lines 4-7). As discussed above, neither Hidary et al. nor Hudetz et al. teach or suggest this operation. Therefore, it is submitted that claims 41 and 42 patentably distinguish over Hidary et al. in view of Hudetz et al.

Claims 43-44 recite providing "enhanced capability based on remote data obtained from the network using an identifier derived by abstraction of contents of a recording accessed by the local computer, where the contents used to derive the identifier are not stored to identify the recording" (e.g., claim 43, lines 4-8). As discussed above, neither Hidary et al. nor Hudetz et al. teach or suggest this operation. Therefore, it is submitted that claims 43 and 44 patentably distinguish over Hidary et al. in view of Hudetz et al.

New Claims

Claims 61-68 have been added to recite the invention using words having a slightly different scope than the previously presented claims. However, claim 61 includes "at least one storage location determined based on an abstraction of contents of the recording not stored to identify the recording" (claim 61, last 3 lines). Therefore, it is submitted that claim 61 and claims 62-68 which depend therefrom patentably distinguish over Hidary et al. in view of Hudetz et al. and claim 61 is supported by the specification for reasons similar to those discussed above.

Claim 62 recites that "the identifier is capable of further abstraction" (claim 62, line 3). It is submitted that neither of the identifiers taught by Hidary et al. and Hudetz et al. are capable of further extraction, yet this capability of the identifier disclosed in the specification (concatenated track length) would be easily understood by a person of ordinary skill in the art, as noted above.

Claim 63 recites "using the identifier in a process capable of finding multiple recordings approximately matching the identifier" (claim 63, lines 2-3). Although the specification does not use these words, an algorithm for determining that two recordings approximately match is

described at page 10, lines 1-17 of the specification and in Appendix A. Since the description of Appendix A appears in a section entitled "Unique Identifiers for Audio CDs" (page 9, line 18), one of ordinary skill in the art would understand that the preferred identifier with its coarse resolution of 1/4th of a second could be used to find two different compact discs that approximately match. Therefore, it is submitted that the limitation recited in claim 63 is supported by the specification and provides a further distinction over Hidary et al. and Hudetz et al. since the URL used in Hidary et al. is an address to specific remote data and the UPC used in Hudetz et al. is designed identify only the product on which the UPC code appears.

Summary

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 2-44 and 61-66 are in a condition for suitable for allowance. Entry of the Amendment, reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: Richard A. Gollhofer
Richard A. Gollhofer
Registration No. 31,106

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

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STAAS & HALSEY
By: Richard A. Gollhofer
Date: 4/21/05